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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re M.B., Person Coming Under the
Juvenile Court Law.

B239544
(Los Angeles County
Super. Ct. No. CK90868)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

ANDRE B.,

Defendant and Appellant.

Appeal from orders of the Superior Court of Los Angeles County. Marilyn K. Martinez, Commissioner. (Pursuant to Cal. Const., art. VI, § 21.)

Amy Z. Tobin, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Tracy Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

SUMMARY

Father, Andre B., appeals from the jurisdictional findings under section 300, subdivisions (b) and (j) of the Welfare and Institutions Code,¹ as well as the dispositional findings and orders under section 361, subdivision (c), for his now eight-year-old son, M.B. Mother, Nina E., is not a party to this appeal. Father contends the dependency court's finding that M.B. was at risk of abuse or neglect, and that the court's order removing M.B. from father's custody, are not supported by substantial evidence. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Mother and father had an informal custody arrangement where M.B. lived with father and paternal grandmother, Carol B., during the week (so M.B. could attend a nearby private school), and spent weekends with his mother. The family had no child welfare history, and by all accounts, M.B. was well cared for. However, M.B. came to the attention of the Department of Children and Family Services on November 14, 2011, following a violent confrontation between father and his ex-girlfriend, Tiffany H. Although M.B. was not present during the confrontation, his younger half-sibling, A.C., was present.² The November 23, 2011 petition alleged that on November 10, 2011, father "engaged in a violent physical altercation in which [he] held a gun to . . . Tiffany [H.'s] head while [she] . . . held [M.B.'s] sibling"

1. The Department's Investigation

Department social workers summarized their findings in a November 23, 2011 Detention Report. On November 14, 2011, the Department received a referral for physical and emotional abuse, based on the November 10, 2011 altercation between

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² Separate dependency proceedings were initiated as to A.C. (case No. CK908867). Father's appeal (case No. B239540) concerning proceedings initiated as to A.C. was dismissed by order of this court pursuant to *In re Sade C.* (1996) 13 Cal.4th 952.

father and Tiffany. Tiffany went to the home father shared with paternal grandmother, to show paternal grandmother the baby that she and father had together, A.C., who was then seven months old. When father discovered Tiffany at his home, he became enraged and pulled a gun on her. While Tiffany was holding A.C., father held the gun to Tiffany's head and grabbed her arm. When father released Tiffany, she secured A.C. in her car and tried to drive away. Father attempted to stop her from leaving, hitting the side of her car and jumping on the car's hood. As Tiffany drove away, father followed and tailgated her, driving erratically.

Tiffany and father had been involved for about a year before A.C.'s birth, and this was the first incident of domestic violence. Tiffany showed the social worker a threatening text message from father, stating that "if it wasn't for her family members, she would not be alive today." Tiffany obtained a temporary restraining order to protect her and A.C.

According to Tiffany, several weeks before the November 10 incident, father heard from family members that Tiffany had a child that was possibly his. A.C.'s birth certificate identifies another man, Ernesto C., as A.C.'s father, even though the child is father's. Tiffany only recently told father about the child, admitting she lied to father and told him she had an abortion. He did not believe he was A.C.'s father.

Father told the social worker he had no interest in A.C. and did not want to be involved with Tiffany. Tiffany had gone to his place of work, telling him they had a child together. Father told her "as far as I'm concerned you told me you had an abortion and there is no son." He admits he became upset when he found Tiffany at his home on November 10 and learned she told paternal grandmother about A.C. Father denied brandishing a gun and said that when Tiffany was leaving, she tried to hit him with her car. He admitted kicking and keying her car as she sped away. He told the social worker that he gave deputies permission to search his home, and they found only bullets in his room. Father denied having a gun.

Father also told the social worker that mother "does not visit her son," is "inappropriate," and is uninvolved in M.B.'s life. He represented he had full legal

custody of his son, but did not have court documents to prove this custody arrangement. He later admitted he did not have a court ordered custody arrangement, and that parents instead had an informal agreement.

The Department social worker interviewed M.B., who said he lived with father and “Nana Carol.” He denied being hit, called names, or touched in “bad places.” He felt safe at home, and reported there are no fights or arguments, and “daddy is good to him and they always play games and do homework together.”

Paternal grandmother did not witness the incident between father and Tiffany, and did not believe father had a gun. She confirmed M.B. was not present during the incident, and that he stays with mother only on the weekends because his school is closer to paternal grandmother’s house. Paternal grandmother and mother have a good relationship, and mother is a “good parent.”

On November 17, the Department, father, and paternal grandmother created a safety plan, where paternal grandmother would care for M.B., and father would not have unsupervised contact with him. Paternal grandmother was willing to make father leave her home if necessary to protect M.B., as “her son brought this on to himself.” She stated M.B. has a good school and should not be disrupted by having to return to mother’s home.

Mother confirmed the informal custody arrangement with father and said there was no history of domestic violence in their relationship. When interviewed on November 18, mother was unaware of the incident between father and his ex-girlfriend. She reported that father is an “excellent dad.” However, several days later, mother told the Department that father informed her he was arrested for “allegedly putting his hands on an ex girlfriend.” Nevertheless, mother “is adamant that father is a good parent and has never had any issues with [M.B].”

The Department requested the court to order M.B.’s removal from father. On November 18, 2011, the trial court denied the department’s request for a removal order, finding an “[i]nadequate showing of no reasonable means to protect without removal.”

A detention hearing was held on November 23, and the trial court placed M.B. in the care and custody of mother, with assistance from paternal grandmother, requiring father's visits to be monitored. The court was concerned that father has "uncontrolled anger management issue[s]." Nevertheless, the court "authorize[d] [father] to live with the paternal grandmother It doesn't appear [M.B.] has been abused or at risk with his father."

A first amended petition was filed on January 10, 2012, adding criminal history and substance abuse allegations as to father.

In its January 12, 2012 Jurisdiction and Disposition report, the Department disclosed father's criminal history involving drugs and alcohol. Father was arrested for possession of marijuana in 2002, convicted of disorderly conduct (public intoxication) in 2006, and was convicted of driving under the influence in 2009. He was also recently arrested in December 2011 for running over his present girlfriend's foot while under the influence of alcohol.

M.B. told the Department he heard his father was arrested after running over his girlfriend's foot with his car. M.B. also saw the police come to his home four years earlier, where they searched his house for "something," and took his father away. M.B. does not know what drugs or alcohol look like.

Los Angeles Sheriff's Deputy Brandon Walker responded to a domestic disturbance call on November 10, 2011. Tiffany reported that father held a gun to her temple, and threatened to kill her. Father also vandalized her car, and Deputy Walker "observe[d] the scratch marks on [her] vehicle." Mother informed responding deputies that father was a member of the Wilmas gang, and she had seen him in possession of guns on several occasions. When the deputies went to father's home, he admitted to having a verbal argument with Tiffany, but denied pointing a gun at her. He denied having any guns or ammunition in his home. However, during a consensual search of father's room, deputies found twenty .25-caliber bullets on a closet shelf, and a handgun magazine in a dresser drawer. Father told deputies the bullets were left over from a camping trip. He refused to comment on the damage to Tiffany's car. He told Deputy

Walker he belonged to the Wilmas gang, and goes by the moniker “Sneaky.” He has a “W” tattooed in his right wrist. Father was arrested for assault with a deadly weapon, child endangerment, felony vandalism and criminal threats. He was released from jail on November 16.

Mother lived with father ““off and on”” for four years. She had never seen him in possession of a gun, but had seen ““random bullets”” when they lived together. Mother did not believe father was a gang member or had a substance abuse problem, although he used to smoke marijuana. She believed father had a criminal history involving alcohol and marijuana charges. She reported that father takes good care of M.B., but ““relies too much on his mother.””

On December 19, father was in custody for running over his current girlfriend’s foot. When a social worker confronted him with the allegations, he laughed and denied them. He admitted to being under the influence of alcohol the night he was arrested, claiming he had ““four drinks.””

Father told the Department he had been involved with Tiffany for four or five months, but she disappeared and later called and told him she had an abortion. He did not have any further contact with her for “many years,” until she started showing up at his work in October 2011. She told him she lied about getting an abortion, and that he was A.C.’s father. She kept calling and texting that she wanted to resume their relationship. He believes Tiffany lied about the November 10 incident to get back at him for rejecting her.

Father admitted he was angry when he came home from visiting his current girlfriend and discovered Tiffany in his living room. He asked her, ““What the hell are you doing here?”” and followed her as she left, asking her, ““What is your problem?”” He never grabbed her or pointed a gun at her. When Tiffany got into her car, he used his car to block her way so that she could not leave. When paternal grandmother told him to ““let it go,”” he moved his car. Father admitted to jumping on the hood of Tiffany’s car, but said he did so because she almost ran him over. Father became upset when he heard Tiffany call her cousin and ask him to go to father’s home. Father yelled at Tiffany and

put his arm in the driver's side window to attempt to open her car door. He pulled his arm out when she started to roll up her window, and keyed her car as she drove away. He followed her in his car, to see where she was going, but denied driving erratically. He stopped following her when he received a call from Tiffany's cousin, telling him Tiffany had called the police. Father denied sending a threatening text message to Tiffany, and said the bullets and a gun magazine found in his home were left over from a camping trip.

Father admitted to smoking marijuana in the past, but denied current use, stating "It's been months since I smoked last." He denied having a problem with alcohol, although he admitted to a conviction for driving under the influence in 2009. He was "in a gang over ten years ago" but "is no longer an active gang member." "[H]e does not understand why the Department became involved."

When Tiffany was interviewed again on December 13, she could no longer recall if father grabbed her arm during the November 10 incident. However, father did point a gun at her head. She had also seen father "in possession of a gun many times." Father told her, "I'm going to kill you. I'll shoot you in the leg." Father tried to prevent her and A.C. from leaving, standing in their way, and jumping on the hood of her car. He also keyed her car. Father followed her as she drove away, and hit her car as she was stopped at a red light. He continued to vandalize her car when she stopped at a shopping center, but left when she called police. Father had never been verbally or physically violent with her before. She was not aware of an alcohol or drug problem, but recalled father had been arrested in 2009. Tiffany admitted to going to father's place of employment and that she wanted to resume a romantic relationship with him.

Ernesto C., Tiffany's current boyfriend, said that Tiffany told him what happened on November 10. Tiffany had met father at a Target store earlier that day to purchase diapers for A.C., but father called her "foul names" and refused to allow her to leave Target.

Paternal grandmother admitted that father had been recently arrested for running over his current girlfriend's foot, but told the Department that father's girlfriend assured her it was not on purpose. Father and his girlfriend have "spats" but "come back lovey

dovey.” Paternal grandmother agreed to not allow father back into her home if he was released from jail on the new charges.

M.B. was observed by social workers to be a “happy child” with no concerns regarding his emotional health.

In a February 9, 2012 last minute information to the court, the Department related that father was convicted of drunk driving, violating probation, vandalism, battery, and felony assault. He was awaiting sentencing.

2. The Adjudication Hearing

At the February 9, 2012 adjudication hearing, the trial court took the Department’s reports into evidence, and heard argument from counsel. After considering the evidence, the amended petition was sustained, with allegations under section 300, subdivision (a) being dismissed. The following allegations were sustained:

“[Under section 300, subdivision (b)] [¶] [Father] engaged in a violent physical altercation in which the father held a gun to the father’s female companion[’s] . . . head, while [she] held the child’s sibling [A.C.]. The father threatened to kill the father’s female companion in the child’s sibling’s presence. The . . . father grabbed the father’s female companion’s arm, inflicting a bruise to the father’s female companion’s arm. On or about 11/10/11, the father was arrested and charged with Domestic Violence. Such violent conduct of the father, against the father’s female companion in the presence of the child’s sibling, [A.C.], endangers the child’s physical health and safety, placing the child at risk of physical harm, damage and danger.

“[Under section 300, subdivision (b)] [¶] [Father] placed the child’s sibling, [A.C.], in an endangering and detrimental situation in that on 11/10/11, the father jumped on the hood of the father’s female companion’s vehicle and chased the father’s female companion while the father drove erratically, with the child’s sibling as a passenger in the mother’s vehicle. Such an endangering and detrimental situation established for the child’s sibling by the father, endangers the child’s physical health and safety, placing the child at risk of physical harm, damage and danger.

“[Under section 300, subdivision (b) (Amended)] [¶] [Father] has an unresolved history of substance abuse and is a frequent user of marijuana and alcohol. Further, the child, [M.B.’s] father . . . has a criminal history for possession of marijuana in 2002, a disorderly conduct: intoxicated

drug/alcohol conviction in 2006 and a DUI conviction in 2009. Such criminal history endangers the physical and emotional health and safety of the child and renders the child's father unfit to provide care and supervision of the child.

“[Under section 300, subdivision (j)] [¶] [Father] placed the child's sibling, [A.C.], in an endangering and detrimental situation in that on or about 11/10/11, the father jumped on the hood of the father's female companion's vehicle and chased the father's female companion while the father drove erratically, with the child's sibling as a passenger in the mother's vehicle. Such an endangering and detrimental situation established for the child's sibling by the father, endangers the child's physical health and safety, placing the child at risk of physical harm, damage and danger.”

The trial court also found by clear and convincing evidence that there was a substantial danger to M.B. unless he was removed from father's custody. The court found that father's “conduct was . . . egregious[,]” and there was “a history of domestic violence. The violence was severe.” The court found that father's “inability to take care of his anger or rage or violence poses a risk to his own children.”

This timely appeal followed.

DISCUSSION

Father makes two contentions on appeal: (1) there is no substantial evidence that M.B. was at risk of harm because of the November 10 incident or his substance abuse, and (2) there was no substantial evidence in support of the trial court's removal order. We disagree.

1. Jurisdiction

Father contends the findings under section 300, subdivisions (b) and (j) are unsupported. Under section 300, subdivision (b), the juvenile court may adjudge a child to be a dependant of the court if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child.” A violation of section 300, subdivision (b) requires: “(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the minor,

or a ‘substantial risk’ of such harm or illness.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) The failure to protect a child from the substantial risk of encountering domestic violence satisfies subdivision (b). (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194.)

“In reviewing the sufficiency of the evidence on appeal, we look to the entire record to determine whether there is substantial evidence to support the findings of the juvenile court. We do not pass judgment on the credibility of witnesses, attempt to resolve conflicts in the evidence, or determine where the weight of the evidence lies. Rather, we draw all reasonable inferences in support of the findings, view the record in the light most favorable to the juvenile court’s order, and affirm the order even if there is other evidence that would support a contrary finding. [Citation.] . . . [Citation.] The appellant has the burden of showing that there is no evidence of a sufficiently substantial nature to support the order.” (*In re Cole C.* (2009) 174 Cal.App.4th 900, 916.)

Some courts have held that past conduct, alone, is sufficient for a jurisdictional finding under section 300, subdivision (b). (*In re David H.* (2008) 165 Cal.App.4th 1626, 1644; *In re J.K.* (2009) 174 Cal.App.4th 1426, 1434-1435.) Others have found that past conduct is insufficient to support jurisdiction, and that harm at the time of the jurisdictional hearing and/or future harm are required. (*In re James B.* (1986) 184 Cal.App.3d 524, 529; *In re Katrina C.* (1988) 201 Cal.App.3d 540, 546; *In re J.N.* (2010) 181 Cal.App.4th 1010, 1023-1024.)

Father contends the November 10 incident, without more, does not support jurisdiction over M.B., reasoning a “single incident of parental misconduct is [in]sufficient to bring the minor within the juvenile court’s jurisdiction.” (See *In re J.N.*, *supra*, 181 Cal.App.4th at pp. 1023-1024.) However, the record supports the dependency court’s jurisdiction over M.B., even if, as father contends, there must be a current risk of harm. The Department introduced evidence that father pointed a gun at his ex-girlfriend while she held their infant child, grabbed her arm, vandalized her car, and erratically followed her as she attempted to drive away. When confronted with his wrongdoing, father did not understand why the Department had become involved. Instead, he blamed

his ex-girlfriend for the incident, claiming she was lying, and minimizing the severity of his conduct. While these dependency proceedings were pending, father was involved in another incident of domestic violence with his *current* girlfriend, where he ran over her foot with his car after he had been drinking. When confronted with these allegations, he laughed dismissively. Under these circumstances, the court's conclusion that father's behavior justified assertion of jurisdiction, and that father was likely to put M.B. at risk if his contact with him was not restricted, was fully supported. (See *In re J.N.*, at pp. 1025-1026 [In evaluating current risk based upon an episode of misconduct, "a juvenile court should consider . . . the present circumstances, which might include, among other things, evidence of the parent's current understanding of and attitude toward the past conduct"].)

We recognize that M.B. was observed to be a happy child, and he was not present for either domestic violence incident. We also recognize that neither mother nor Tiffany reported any previous history of domestic violence, and that mother believed father to be a good parent. But the incident that started this case, and the one that occurred while it was pending, demonstrate that father has unresolved issues with domestic violence. Although there are conflicting accounts of what happened, it is not our job to reweigh the evidence. The purpose of section 300 is to "provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm." (§ 300.2.) Based on father's egregious conduct, the trial court could reasonably conclude that M.B. was at risk for exposure to domestic violence and/or other harm. (*In re E.B.* (2010) 184 Cal.App.4th 568, 576; *In re Heather A.*, *supra*, 52 Cal.App.4th at pp. 195-196.)

Father concedes that "[e]xposure to domestic violence may place a child at substantial risk [f]or physical or emotional harm[.]" but contends there is no domestic violence in this case, because his former and current girlfriends were not members of his household. He relies on an online dictionary definition of "domestic violence," defining it as violence "against someone *living in one's household*." (Dictionary.com <<http://www.dictionary.reference.com/browse/domestic+violence?s=ts>> [as of Nov. 27,

2012], italics added.) We do not need to resort to dictionaries when defining domestic violence, as the Legislature has defined it for us. Penal Code section 243 prohibits battery against “a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant’s child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship.” Both Tiffany and father’s current girlfriend fit squarely within this definition. (Pen. Code, § 243, subd. (e)(1).)

Given our conclusion that substantial evidence supports jurisdiction under section 300, subdivision (b), we need not address father’s arguments that the evidence does not support a jurisdictional finding under subdivision (j), or that his substance abuse was insufficient to support jurisdiction. (*In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875 [“[A] reviewing court may affirm a juvenile court judgment if the evidence supports the decision on any one of several grounds”].)

2. Removal Order

Father contends the department did not meet its burden of proof for removal of M.B. A child may not be removed from a parent or guardian unless there is clear and convincing evidence of “substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parent’s or guardian’s physical custody.” (§ 361, subd. (c)(1).) In determining whether a child may be safely maintained in the parent’s physical custody, the court may consider the parent’s past conduct and current circumstances, and the parent’s response to the conditions that gave rise to juvenile court intervention. (*In re Cole C.*, *supra*, 174 Cal.App.4th at p. 917.) A trial court’s removal order is reviewed under the substantial evidence standard of review, notwithstanding the evidentiary standard used at trial. (*In re Heather A.*, *supra*, 52 Cal.App.4th at p. 193; see also *In re E.B.*, *supra*, 184 Cal.App.4th at p. 578 [“The clear and convincing standard was adopted to guide the trial court; it is not a standard for appellate review. [Citation.] The substantial evidence rule applies no matter what the standard of proof at trial.”].)

Contrary to father's contention, there is substantial evidence supporting M.B.'s removal from his custody. As discussed *ante*, father has serious unresolved domestic violence issues that put M.B. at risk. Following the November 10 incident that started these proceedings, father engaged in yet another act of domestic violence. He also did not understand why the Department was involved. On these facts, the trial court could reasonably conclude that removal was required to protect M.B., because father did not appreciate the severity of his conduct, or understand that it posed a threat to M.B.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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GRIMES, J.

I CONCUR:

BIGELOW, P. J.

Flier, J., Dissenting

Because I find no substantial evidence supported jurisdiction under Welfare and Institutions Code section 300, subdivision (b) or (j), I respectfully dissent.¹ Father's aberrant behavior on November 10, 2011, including brandishing a firearm, and following his ex-girlfriend, Tiffany, do not warrant jurisdiction over M.B. in this case in which father had been a loving parent throughout M.B.'s life. There is no evidence father ever mistreated eight-year-old M.B.

To assume jurisdiction under section 300, subdivision (b), there must be evidence M.B. "suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child" Here, no such evidence existed. Father's conduct toward Tiffany, although inexcusable, does not demonstrate M.B. was at risk of any harm. M.B. was not present when father threatened Tiffany, and there was no evidence that father ever had engaged in violent conduct or made threats to M.B. or in M.B.'s presence. To the contrary, the only evidence was that father appropriately parented M.B. and that M.B. enjoyed living with father. M.B.'s mother, who observed father's conduct with M.B. throughout M.B.'s life, described father as having a positive, loving relationship with M.B.

Father's conduct on November 10 was unusual, and even Tiffany acknowledged that father had never previously abused her. M.B. said that father never hit him and no contrary evidence was introduced. While father's conduct cannot be condoned, the circumstances immediately surrounding it – Tiffany's revelation of her lies to father about having an abortion – give context to it and support the inference that father's

¹ Undesignated statutory citations are to the Welfare and Institutions Code.

conduct was not likely to recur. Under such circumstances, jurisdiction was unwarranted. (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1026-1027.)

Jurisdiction under section 300, subdivision (b) requires proof of a current risk to the child. (*In re Destiny S.* (Oct. 31, 2012, B239393) ___ Cal.App.4th ___ [2012 Cal.App. Lexis 1144].) The Los Angeles County Department of Children and Family Services (DCFS) failed to show with specificity how M.B. was at risk of harm. (See *In re James R.* (2009) 176 Cal.App.4th 129, 137.) Father's conduct toward Tiffany was not reflective of his behavior with M.B. In over seven years, father had never harmed M.B. DCFS entirely ignored father's eight-year track record with M.B. DCFS's reliance on evidence that father previously used marijuana and alcohol, previously was a member of a gang, and had a criminal background does not support the inference that M.B. was at risk of harm from father. The issue in this case is not father's background, but instead is whether M.B. "suffered, or there is a substantial risk that the child will suffer serious physical harm or illness." (§ 300, subd. (b).) The focus of juvenile dependency proceedings is "protecting children and serving their best interests, not punishing the parent." (*In re B.T.* (2011) 193 Cal.App.4th 685, 695.) This is a dependency case not a criminal proceeding. Because DCFS failed to provide any evidence that M.B. was at risk of serious physical harm or illness, the juvenile court erred in assuming jurisdiction under section 300, subdivision (b).

Finally, the section 300, subdivision (j) allegation that M.B.'s sibling, A.C., had been abused or neglected by father's erratic driving while A.C. was in Tiffany's car does not support an inference that there was a substantial risk to M.B. To assume jurisdiction under section 300, subdivision (j), there must be evidence that "the child's sibling has been abused or neglected . . . , and there is a substantial risk that the child will be abused or neglected" Although father's conduct toward Tiffany may have placed A.C. at risk, M.B. was never at risk. Father's conduct toward A.C. was not probative of his conduct toward M.B. because father knew only M.B. as his child. It was undisputed that father treated M.B. well, loved him, and cared for him. Father had an eight-year relationship with M.B., who suffered no injuries as a result of father and lived in a loving

home with his father and paternal grandmother. M.B. was doing well in father's care and would suffer from being separated from father. For these reasons, the jurisdictional order should be reversed and all subsequent orders should be vacated. (See *In re Maria R.* (2010) 185 Cal.App.4th 48, 71.)

FLIER, J.